

Remarks

The Communication mailed March 20, 2003 has been received and reviewed. Claims 1-10, 12-29, and 32-36 have been amended. Claims 30-31 have been canceled. The claim amendments made herein are intended to correct formal matters only and should not be construed to change the scope of the amended claims in any way. All claim amendments and cancellations are made without prejudice or disclaimer.

The Communication first required applicant to elect between the claim sets of Groups I and II. If Group I was elected, applicant was requested to elect a species for prosecution.

Applicant elects the invention of Group I containing claims 1-29 and 32-36 without traverse.

Applicant, however, traverses the species election in part. Applicant respectfully submits that FIG. 11, corresponding to Species C, is merely a generic schematic of the circuit elements of the iontophoretic device of FIG. 14 (circuit elements generally indicated at 200), which is currently Species D. The primary difference between FIGs. 11 and 14 is that FIG. 14 includes additional structures for containing the circuit elements and applying them to a body. FIGs. 12 and 13 chart performance characteristics of the schematic of FIG. 11, and are currently considered part of Species A. (See Specification, paragraphs [0057]-[0061]). It is respectfully submitted FIGs. 11-14 disclose a single species of the invention. Applicant would accordingly request that the species be re-defined to one corresponding to FIGs. 11 through 14. Claims believed to be readable on such a redefined species are claims 1-2, 6, 8, 10-12, 14-16, 18-20, and 32-36.

If the difference between FIGs. 11 and 14 is sufficient to support a species election, a "reasonable number" of species may still be included in one application. 37 C.F.R. § 1.141(a). In order for this provision of Rule 141 to apply, however, the application is to include an allowable claim generic to all claimed species and all claims to species in excess of one are to be written in dependent form or otherwise include all the limitations of the generic claim. *Id.*

With respect to the species election, at least independent claims 1, 11, 12, and 32 are believed to be "generic". Dependent claims 2, 6, 8, 10, 14-16, 18-20, and 33-36, each of which depends from a "generic" independent claim, specifically claim the particular species. Accordingly, all the requirements of Rule 141(a) are believed to apply and the election should be withdrawn.

With respect to the question whether or not a reasonable number of species is included, applicants would respectfully point out that a continuation-in-part of this application (*i.e.*, U.S. Application No. 10/125,014) has already started substantive examination. Copies of the search results are enclosed herewith. Accordingly, no unreasonable effort should be required on the part of the Office to examine the claims as they exist after entry of this amendment.

To the extent applicant's traversal is ineffective to overcome the species election, applicant provisionally elects Species C - FIG. 11. To the extent applicant understands the definition of Species C, the claims believed to be readable thereon are claims 1-2, 6, 8, 10-12, 14-16, 18-20, and 32-36.

Conclusion

The application should now be in condition for substantive examination. Should the Examiner have any questions resulting from the foregoing, she is kindly requested to contact applicant's undersigned attorney.

Respectfully submitted,



Allen C. Turner
Registration No. 33,041
Attorney for Applicant
TRASKBRITT, PC
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922
Facsimile: 801-531-9168

Date: April 21, 2003

ACT/SGH

Enclosures: **Appendix A** – clean version of substitute specification
Appendix B – marked-up version of substitute specification
Information Disclosure Statement

Document in ProLaw